



HOUSE BILL No. 4295

February 2, 1995, Introduced by Reps. Gnodtke and Baade and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend section 35 of Act No. 222 of the Public Acts of 1976, entitled as amended "Sand dune protection and management act," as added by Act No. 147 of the Public Acts of 1989, being section 281.685 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 35 of Act No. 222 of the Public Acts of
2 1976, as added by Act No. 147 of the Public Acts of 1989, being
3 section 281.685 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 35. (1) Unless a variance is granted pursuant to
6 section 36, a zoning ordinance shall not permit the following
7 uses in a critical dune area:

8 (a) A structure on a slope within a critical dune area that
9 is 18% to 25% unless the structure is in accordance with plans

1 prepared for the site by ~~a registered professional~~ AN architect
2 or ~~a licensed~~ professional engineer LICENSED UNDER ARTICLE 20
3 OF ACT NO. 299 OF THE PUBLIC ACTS OF 1980, BEING
4 SECTIONS 339.2001 TO 339.2014 OF THE MICHIGAN COMPILED LAWS, and
5 the plans provide for the disposal of storm waters without seri-
6 ous soil erosion and without sedimentation of any stream or other
7 body of water. Prior to approval of the plan, the planning com-
8 mission shall consult with the local soil conservation district.

9 (b) A use on a slope within a critical dune area that is
10 greater than 25% UNLESS THE STRUCTURE IS IN ACCORDANCE WITH PLANS
11 PREPARED FOR THE SITE BY A PROFESSIONAL ENGINEER LICENSED UNDER
12 ARTICLE 20 OF ACT NO. 299 OF THE PUBLIC ACTS OF 1980 THAT INDI-
13 CATE THAT SUCH A USE IS APPROPRIATE AND FEASIBLE ON THE CRITICAL
14 DUNE AREA.

15 (c) A use that is a structure that is not in compliance with
16 subsection (2).

17 (d) A use involving a contour change that is likely to
18 increase erosion, decrease stability, or is more extensive than
19 required to implement a use for which a permit is requested.

20 (e) Silvicultural practices, as described in the "voluntary
21 forest management guidelines for Michigan", prepared by the soci-
22 ety of American foresters in 1987, that are likely to increase
23 erosion, decrease stability, or are more extensive than required
24 to implement a use for which a permit is requested.

25 (f) A use that involves a vegetation removal that is likely
26 to increase erosion, decrease stability, or is more extensive

1 than required to implement a use for which a permit is
2 requested.

3 (g) A use that is not in the public interest. In determin-
4 ing whether a proposed use is in the public interest, the local
5 unit of government shall consider both of the following:

6 (i) The availability of feasible and prudent alternative
7 locations or methods, or both, to accomplish the benefits
8 expected from the use. If a proposed use is 1 single family
9 dwelling on a lot of record owned by the applicant, consideration
10 of feasible and prudent alternative locations shall be limited to
11 the lot of record on which the use is proposed. A lot of record
12 shall not be created strictly for the purpose of avoiding consid-
13 eration of alternative locations under this subparagraph.

14 (ii) The impact that is expected to occur to the critical
15 dune area, and the extent to which the impact may be minimized.

16 (2) A use that is a structure shall be constructed behind
17 the crest of the first landward ridge of a critical dune area
18 that is not a foredune. However, if construction occurs within
19 100 feet measured landward from the crest of the first landward
20 ridge that is not a foredune, the applicant shall demonstrate
21 that the proposed use meets all of the following requirements:

22 (a) The use will not destabilize the critical dune area.

23 (b) Contour changes and vegetative removal are limited to
24 that essential to siting the structure.

25 (c) Access to the structure is from the landward side of the
26 dune.

1 (d) The dune is restabilized with indigenous vegetation.

2 (e) Construction techniques and methods are employed that
3 mitigate the impact on the dune.

4 (f) The crest of the dune is not reduced in elevation.

5 (g) If the department is implementing the provisions of the
6 model zoning plan, the use meets all other applicable require-
7 ments of the zoning ordinance or the model zoning plan.

8 (3) If the local unit of government is not certain of the
9 degree of slope on a property for which a use permit is sought,
10 the local unit may require that the applicant supply contour maps
11 of the site with 5-foot intervals at or near any proposed struc-
12 ture or roadway or consult with the local soil conservation dis-
13 trict regarding the degree of slope.